

EXHIBIT 11

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF NEW JERSEY

IN RE: JOHNSON & JOHNSON
 TALCUM POWDER PRODUCTS
 MARKETING SALES
 PRACTICES, AND PRODUCTS
 LIABILITY LITIGATION } MDL NO.16-2738 (FLW) (LHG)

VIDEO-RECORDED DEPOSITION OF
 MARK W. RIGLER, PH.D.

February 6, 2019
 9:14 a.m.

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 Johns Creek, Georgia

Frances Buono, RPR, CCR-B-791

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(Reporter disclosure made pursuant to Article 10.B. of the Rules and Regulations of the Board of Court Reporting of the Judicial Council of Georgia.)

(Identification statement by videographer.)

MARK W. RIGLER, PH.D.,

having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. CHACHKES:

Q. Good morning, Dr. Rigler.

A. **Good morning.**

Q. How are you?

A. **Good; you?**

Q. Good.

MR. CHACHKES: So just for the record, I have the same late production objections as yesterday and the same request to keep the deposition open. I assume you have the same?

MS. O'DELL: We have the same opposition.

Q. (By Mr. Chachkes) Okay. So what I've done is I've brought some exhibits from yesterday, so if you're wondering why there's stamps on them, it's because they're the stamps from Dr. Longo's

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 2 Excerpt - Trial transcript, 136
 3 February 20, 2018, Vol. XIV, Lanzo
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 7 3 MAS TEM Coefficient of Variation for 173
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 10 4 Graph 177

(Original Exhibits 1 through 4 have been attached to the original transcript.)

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deposition. We are going to use some of the same exhibits, if that's okay.

A. **Yes.**

Q. So what's been marked yesterday -- so all the stamps are February 5, 2019, Longo. And I'm going to use those exhibits unless I use a new exhibit.

A. **Okay.**

Q. So I'm just going to hand you what's been marked yesterday as Exhibit 2. And you recognize that as the January 15 version of the report that you cosigned?

A. **Yes.**

Q. Okay. And what was your involvement in drafting this report?

A. **I reviewed the report, looked over the data, and made typographical and grammatical corrections throughout the report.**

Q. Okay. Do you feel qualified to testify to every matter that's in that report?

MS. O'DELL: Object to the form.

THE WITNESS: As I say, I am qualified to testify on what's in this report now, yes.

Q. (By Mr. Chachkes) Okay. So if Dr. Longo were to, for example, not show up at a trial, you

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09:24:47 **1** Q. More than 15 hours?
 09:24:48 **2** A. **I don't know.**
 09:24:49 **3** Q. So probably over 10 hours, but you don't
 09:24:52 **4** know beyond that?
 09:24:52 **5** A. **Correct.**
 09:24:53 **6** Q. Okay. And were you involved in the
 09:24:58 **7** creation of the protocols to test J&J talc in this
 09:25:03 **8** case?
 09:25:04 **9** A. **In terms of the protocols for the testing,**
 09:25:09 **10** **we used standard methods throughout for the analysis.**
 09:25:14 **11** **Dr. Longo essentially put together the way the test**
 09:25:18 **12** **or the study was going to be done, but we, you know,**
 09:25:21 **13** **overall use the standard methods throughout.**
 09:25:23 **14** Q. When you say Dr. Longo put together the
 09:25:26 **15** way -- you said the way the studies would be
 09:25:28 **16** conducted?
 09:25:29 **17** A. **Yes.**
 09:25:29 **18** Q. Was that something in writing?
 09:25:31 **19** A. **Well, he directs the study on a daily**
 09:25:35 **20** **basis.**
 09:25:35 **21** Q. The question is was it in writing?
 09:25:38 **22** A. **Was it in writing? I don't know. You'd**
 09:25:42 **23** **have to ask Dr. Longo.**
 09:25:43 **24** Q. Okay. So you're unaware of whether he
 09:25:46 **25** communicated with the analysts about protocol in
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09:25:48 **1** writing?
 09:25:49 **2** A. **Well, the --**
 09:25:50 **3** MS. O'DELL: Object to form.
 09:25:51 **4** THE WITNESS: -- laboratory has protocol
 09:25:52 **5** for the way that talc is analyzed and
 09:25:59 **6** asbestos-bearing products are analyzed, so we
 09:26:01 **7** have written protocol for those things.
 09:26:03 **8** MR. CHACHKES: Okay. And I think I've
 09:26:06 **9** requested that those be produced. I don't think
 09:26:07 **10** those have been produced.
 09:26:09 **11** MS. O'DELL: I think it's reflected in his
 09:26:11 **12** report, but we will consider your request.
 09:26:13 **13** Q. (By Mr. Chachkes) Okay. Do you
 09:26:21 **14** communicate with the analysts by email at all?
 09:26:23 **15** A. **Communicate with the analysts by email?**
 09:26:26 **16** **No. I can go speak to them.**
 09:26:29 **17** Q. Okay. There's no sort of like weekly
 09:26:33 **18** email or monthly email where you summarize what's
 09:26:36 **19** going on?
 09:26:37 **20** A. **No.**
 09:26:37 **21** Q. Did you ever change an analyst's
 09:26:42 **22** determinations where an analyst came up with some
 09:26:44 **23** conclusion and you said maybe that's not right, go
 09:26:46 **24** back?
 09:26:47 **25** A. **No.**
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09:26:49 **1** Q. Do you consider yourself an expert in TEM
 09:26:56 **2** analysis?
 09:26:56 **3** A. **Well, the term expert, I think, you**
 09:27:00 **4** **probably have to defer that to the court. I mean, I**
 09:27:04 **5** **have more than the layperson's knowledge so -- but I**
 09:27:08 **6** **would defer that to the court.**
 09:27:10 **7** Q. Okay. Have you --
 09:27:13 **8** A. **I mean, I've been qualified as an expert**
 09:27:16 **9** **before, but in this case...**
 09:27:19 **10** Q. When is the first time you ever used a
 09:27:21 **11** TEM?
 09:27:21 **12** A. **The first time I used a TEM? Let's see.**
 09:27:24 **13** **That would probably have been sometime in the early**
 09:27:29 **14** **'80s, I would say, yeah.**
 09:27:31 **15** Q. How many times have you used an SAED to
 09:27:35 **16** characterize a particle?
 09:27:36 **17** A. **SAED?**
 09:27:37 **18** Q. SAED.
 09:27:39 **19** A. **I don't know if I could count the number**
 09:27:40 **20** **of times.**
 09:27:41 **21** Q. How many times have you used EDXA to
 09:27:45 **22** characterize a particle?
 09:27:47 **23** A. **Same answer on that. Yes.**
 09:27:48 **24** Q. What about PLM, do you consider yourself
 09:27:53 **25** an expert on PLM?
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09:27:54 **1** A. **I am not a PLM microscopist.**
 09:27:56 **2** Q. Okay. What was your contribution to the
 09:27:58 **3** PLM aspects of the January 15 report?
 09:28:03 **4** A. **Well, as far as PLM contributions, again,**
 09:28:07 **5** **I'm not the PLM analyst, so we just wanted to be sure**
 09:28:13 **6** **that the quality program was being followed in the**
 09:28:18 **7** **laboratory.**
 09:28:18 **8** Q. When you say that a quality program was
 09:28:21 **9** being followed, is that the same contribution you
 09:28:31 **10** made to the other portions of the report?
 09:28:33 **11** MS. O'DELL: Object to form.
 09:28:34 **12** THE WITNESS: Yes. Well, I would say yes
 09:28:35 **13** to that. Yes.
 09:28:36 **14** Q. (By Mr. Chachkes) Okay. Did you ever
 09:28:43 **15** personally test a talc sample for asbestos
 09:28:45 **16** contamination?
 09:28:46 **17** A. **Did I ever personally test them?**
 09:28:48 **18** Q. Yes.
 09:28:48 **19** A. **Not that I can recall as I sit here.**
 09:28:50 **20** Q. Okay.
 09:28:55 **21** A. **We've done tissue testing for talc and**
 09:29:00 **22** **asbestos in tissue, yes.**
 09:29:01 **23** Q. But just testing talcum powder that came
 09:29:05 **24** out of a bottle, you've never done that?
 09:29:07 **25** A. **I've not personally tested that.**
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14:04:17 **1** Q. Let me --
 14:04:22 **2** A. **I mean, the rate is based on the number of**
 14:04:24 **3 structures that they counted. Now, they may have**
 14:04:26 **4 been a fiber or a bundle, but it's the total number**
 14:04:29 **5 of structures they counted. Yep.**
 14:04:31 **6** MR. CHACHKES: Let's mark as the next
 14:04:32 **7** exhibit, what are we on, 4?
8 (Defendants' Exhibit 4 was marked for
 14:04:52 **9** identification.)
 14:04:52 **10** Q. (By Mr. Chachkes) So what we have marked
 14:04:55 **11** as Rigler 4 is a demonstrative we worked up so that
 14:04:57 **12** we can see -- compare the analysts' work against each
 14:04:59 **13** other.
 14:05:00 **14** Can you just confirm that -- let's look,
 14:05:03 **15** for example, at analyst 1, what they found for grid
 14:05:10 **16** opening A8-E2?
 14:05:16 **17** A. **Which analysis is this? Which sample is**
 14:05:17 **18 this?**
 14:05:18 **19** Q. So this is -- you've gone to the appendix,
 14:05:21 **20** right, of Rigler 3.
 14:05:26 **21** A. **What? Where are we --**
 14:05:29 **22** Q. So Rigler 3 is the coefficient of
 14:05:32 **23** variation study?
 14:05:33 **24** A. **Okay.**
 14:05:33 **25** Q. And if you go into -- there are sheets for
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14:05:38 **1** different analysts; right?
 14:05:39 **2** A. **Yeah, these are the count sheets, right.**
 14:05:41 **3** Q. Right. So if you go to the first analyst
 14:05:48 **4** and you go to A8-E2 --
 14:05:51 **5** A. **Okay.**
 14:05:51 **6** Q. -- you see that the structure identified
 14:05:53 **7** was a bundle --
 14:05:54 **8** A. **Okay.**
 14:05:54 **9** Q. -- right?
 14:05:55 **10** A. **Yes.**
 14:05:56 **11** Q. Okay. And then in my demonstrative you
 14:05:58 **12** see that's a bundle; right?
 14:06:00 **13** A. **Right.**
 14:06:00 **14** Q. And then you go to analyst number 2 -- is
 14:06:06 **15** that the second page?
 14:06:07 **16** A. **Yes.**
 14:06:07 **17** Q. Okay. And it says in the upper left-hand
 14:06:09 **18** corner analyst 2?
 14:06:10 **19** A. **Yes.**
 14:06:10 **20** Q. Okay. That for A8-E2 that analyst
 14:06:16 **21** identified a fiber?
 14:06:17 **22** A. **Okay.**
 14:06:17 **23** Q. Is that correct?
 14:06:18 **24** A. **Uh-huh.**
 14:06:19 **25** Q. Okay. And that's reflected in the
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14:06:21 **1** demonstrative?
 14:06:22 **2** A. **Yep.**
 14:06:22 **3** Q. And analyst number 3, A8-E2, that analyst
 14:06:27 **4** detected a fiber?
 14:06:28 **5** A. **Yes.**
 14:06:29 **6** Q. Okay. And then analyst number 4, A8-E2,
 14:06:34 **7** that analyst detected a bundle?
 14:06:36 **8** A. **Yes. Yep.**
 14:06:37 **9** MS. O'DELL: Did you say A8-2 twice?
 14:06:41 **10** THE WITNESS: This one.
 14:06:41 **11** MR. CHACHKES: A8-E2.
 14:06:43 **12** THE WITNESS: Yeah. Is that grid square?
 14:06:44 **13** MS. O'DELL: Yeah.
 14:06:44 **14** THE WITNESS: Yeah.
 14:06:45 **15** MS. O'DELL: Got it. And then for --
 14:06:49 **16** Q. (By Mr. Chachkes) Okay. So what we've
 14:06:51 **17** done is we've summarized these grid openings in this
 14:06:55 **18** demonstrative in that way --
 14:06:56 **19** A. **Right.**
 14:06:56 **20** Q. -- do you follow me so far?
 14:06:58 **21** A. **Yes.**
 14:06:58 **22** Q. And your analysts are trained to
 14:07:00 **23** distinguish between a fiber and a bundle; right?
 14:07:02 **24** A. **Yes.**
 14:07:02 **25** Q. And you ran this experiment to detect how
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14:07:06 **1** good your analysts were at identifying the same
 14:07:09 **2** thing?
 14:07:09 **3** MS. O'DELL: Object to the form.
 14:07:10 **4** Q. (By Mr. Chachkes) Is that a yes?
 14:07:11 **5** A. **That would be yes.**
 14:07:11 **6** Q. But out of the 11 grid openings, your
 14:07:14 **7** analysts only came to consensus on the type of
 14:07:16 **8** structure they found only once?
 14:07:18 **9** MS. O'DELL: Object to the form.
 14:07:19 **10** THE WITNESS: Every time they came to the
 14:07:20 **11** consensus that it was tremolite.
 14:07:22 **12** Q. (By Mr. Chachkes) This is not the
 14:07:23 **13** question.
 14:07:23 **14** A. **But that is the answer. This is what**
 14:07:25 **15 we're concerned about here, is it asbestos.**
 14:07:27 **16** Q. The question before you is: Out of 11
 14:07:30 **17** grid openings your analysts only came to a consensus
 14:07:33 **18** on the type of structure they found only once?
 14:07:36 **19** A. **What's that? Out of 11 grid openings?**
 14:07:39 **20** Q. Right.
 14:07:40 **21** A. **No.**
 14:07:40 **22** Q. Okay. Look at the demonstrative.
 14:07:40 **23** A. **Okay.**
 14:07:43 **24** Q. For A8-E2 your analysts did not find the
 14:07:46 **25** same structure; right? Two found bundle, two found
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14:07:52 **1** fiber?

14:07:52 **2 A. Uh-huh.**

14:07:53 **3 Q.** For A8-E4 they all agree it's a fiber?

14:07:57 **4 A. Uh-huh.**

14:07:57 **5 Q.** For A8-E5 they did not agree whether it

14:08:00 **6** was a bundle or fiber.

14:08:02 **7 A. Okay.**

14:08:03 **8** MS. O'DELL: And feel free to check if you

14:08:05 **9** need to check the data. It's in the

14:08:08 **10** demonstrative.

14:08:08 **11 Q.** (By Mr. Chachkes) Yeah. I mean, if you

14:08:09 **12** think we're putting a fraudulent --

13 A. No --

14 Q. -- in front of you --

14:08:13 **15 A. -- no.**

14:08:13 **16** MS. O'DELL: I think mistakes can happen.

17 THE WITNESS: I'm sure they can.

14:08:15 **18** MS. O'DELL: I think probably the others

14:08:16 **19** happen, too, but I'm not suggesting that in this

14:08:18 **20** situation.

14:08:18 **21 Q.** (By Mr. Chachkes) So you can see for the

14:08:20 **22** 11 grid openings on the demonstrative we put before

14:08:23 **23** you, there was only one instance where the analysts

14:08:27 **24** agreed on the fiber structure.

14:08:30 **25 A. Okay.**

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14:08:31 **1 Q.** Right?

14:08:32 **2 A. Okay.**

14:08:32 **3 Q.** And did you -- did you determine an error

14:08:39 **4** rate for your analysts' ability to determine

14:08:42 **5** morphology?

14:08:43 **6 A. No.**

14:08:44 **7 Q.** If you did based on this, it would be a

14:08:47 **8** pretty high error rate, wouldn't it?

14:08:49 **9** MS. O'DELL: Object to the form.

14:08:50 **10** THE WITNESS: Well, it's not an error as

14:08:51 **11** to what the material is, is it? It's all

14:08:53 **12** tremolite. It's all tremolite asbestos. It all

14:08:56 **13** meets the definition for tremolite asbestos,

14:08:57 **14** bundle, fiber.

14:08:59 **15 Q.** (By Mr. Chachkes) I'll ask the question

14:09:00 **16** again.

14:09:00 **17 A. Okay.**

14:09:00 **18 Q.** If you were to determine an error rate for

14:09:03 **19** determining the morphology of what the analysts in

14:09:06 **20** the coefficient of variation were looking at, it

14:09:09 **21** would be a very high error rate, wouldn't it?

14:09:11 **22** MS. O'DELL: Object to the form.

14:09:12 **23** THE WITNESS: No. No, it wouldn't.

14:09:12 **24 Q.** (By Mr. Chachkes) Even though they only

14:09:13 **25** agreed once out of 11 times?

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14:09:15 **1** MS. O'DELL: Object to the form.

14:09:16 **2** THE WITNESS: No.

14:09:16 **3 Q.** (By Mr. Chachkes) Why?

14:09:17 **4 A. It's not.**

14:09:18 **5 Q.** Why?

14:09:18 **6 A. Well, the max I can see here is it might**

14:09:23 **7 be -- it might be maybe 50 percent, maybe, if that's**

14:09:28 **8 what it is.**

14:09:28 **9 Q.** Okay.

14:09:29 **10 A. And I don't agree with it, okay, because**

14:09:32 **11 the objective here is is it asbestos? Is it**

14:09:35 **12 asbestiform asbestos? The answer is yes.**

14:09:37 **13 Q.** So a 50 percent error rate in your mind is

14:09:39 **14** not high?

14:09:40 **15** MS. O'DELL: Object to the form.

14:09:41 **16** THE WITNESS: No, this is not --

14:09:43 **17** MS. O'DELL: Give me a moment.

14:09:45 **18** Object to the form.

14:09:46 **19** Go ahead.

14:09:46 **20** THE WITNESS: I mean, again, the objective

14:09:48 **21** here is to determine if this is asbestos, is

14:09:51 **22** this asbestiform. And the answer to that is

14:09:54 **23** yes. You're going to have some variation based

14:09:56 **24** on what they see in the microscope, all right,

14:10:01 **25** and that is totally acceptable.

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14:10:03 **1 Q.** (By Mr. Chachkes) Okay. When you say

14:10:05 **2** totally acceptable, what do you mean by that?

14:10:06 **3 A. Well, it's acceptable based on what the**

14:10:13 **4 asbestiform is, according to the definition. All**

14:10:16 **5 right. Fiber, bundle, .5 or greater, 5-to-1 aspect**

14:10:22 **6 ratio. Every one of these fits that.**

14:10:24 **7 Q.** So -- well, that's not quite correct;

14:10:28 **8** right? A8-G4, three analysts found no detectable

14:10:34 **9** asbestos and only one found asbestos; right?

14:10:36 **10 A. That happens.**

11 Q. Okay.

14:10:36 **12 A. That can happen.**

14:10:37 **13 Q.** And then A8-G5, three analysts found no

14:10:41 **14** asbestos and one identified a bundle?

14:10:43 **15 A. Again, that can happen.**

14:10:45 **16 Q.** And you testified before that there's a

14:10:49 **17** right answer and a wrong answer as to whether

14:10:52 **18** something's a fiber or a bundle; right?

14:10:54 **19 A. Yes.**

14:10:54 **20 Q.** Do you know for grid opening A8-E4 which

14:10:59 **21** analyst got it wrong and which analyst got it right?

14:11:01 **22** MS. O'DELL: Object to the form.

14:11:02 **23** THE WITNESS: They both got it right.

14:11:04 **24** They all got it right.

14:11:05 **25 Q.** (By Mr. Chachkes) Okay. And so if

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14:11:08 **1** there's objectively a right answer to whether it's a
 14:11:11 **2** fiber or bundle, how can something be both a fiber
 14:11:14 **3** and a bundle?
 14:11:15 **4** **A. As I say, the analyst, their job is to**
 14:11:22 **5 figure out whether it meets the definition, all**
 14:11:24 **6 right? Fiber or bundle, it meets the specification**
 14:11:28 **7 for whether it is asbestos, asbestiform asbestos.**
 14:11:33 **8 Q.** Okay. Putting --
 14:11:34 **9 A. That's what we're concerned about here.**
 14:11:36 **10 Q.** Putting aside whether there's -- what they
 14:11:38 **11 identified as asbestiform, I'm just talking about the**
 14:11:41 **12 morphology.**
 14:11:41 **13 A. Sure.**
 14:11:42 **14 Q.** For A8-E2, two analysts must have gotten
 14:11:46 **15 it wrong and two must have gotten it right.**
 14:11:48 **16 MS. O'DELL:** Object to the form.
 14:11:49 **17 THE WITNESS:** No. They all got it right.
 14:11:50 **18 Q.** (By Mr. Chachkes) Okay. So you don't
 14:11:50 **19 care whether an analyst correctly identifies**
 14:11:54 **20 something as a bundle or fiber?**
 14:11:56 **21 MS. O'DELL:** Object to the form.
 14:11:56 **22 MS. PARFITT:** Misstates his testimony.
 14:11:59 **23 THE WITNESS:** What I've said is it meets
 14:12:00 **24 the definition. That's what is of concern to**
 14:12:03 **25 me. That's the most important part.**
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14:12:39 **1** your question.
 14:12:39 **2** THE WITNESS: Numerous times.
 14:12:41 **3** MS. O'DELL: Excuse me. Three or four
 14:12:42 **4** times. If you want to waste your time, but
 14:12:45 **5** don't badger the witness.
 14:12:46 **6** MR. CHACHKES: I'm not going to badger the
 14:12:50 **7** witness --
 14:12:50 **8** MS. O'DELL: You are badgering the
 14:12:50 **9** witness.
 14:12:50 **10** MR. CHACHKES: -- clear answer.
 14:12:50 **11** MS. O'DELL: He's answered your question
 14:12:51 **12** very clearly.
 14:12:52 **13** MR. CHACHKES: I'm going to ask the same
 14:12:53 **14** question again. You can tell me I'm not allowed
 14:12:56 **15** to, and I'll move on.
 14:12:56 **16** MS. O'DELL: I'm telling you that the
 14:12:56 **17** rules require that you not badger the witness.
 14:12:56 **18** That's what I'm stating to you.
 14:13:01 **19** MR. CHACHKES: I'm -- level voice. It's a
 14:13:02 **20** calm question. It's a serious question. So.
 14:13:04 **21** MS. O'DELL: That doesn't mean you're not
 14:13:08 **22** badgering the witness, as you are well aware.
 14:13:09 **23** MR. CHACHKES: I believe I'm entitled to a
 14:13:11 **24** clear answer to a clear question.
 14:13:13 **25** MS. O'DELL: You're not entitled to the
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 14:12:04 **1 Q.** (By Mr. Chachkes) The question is do you
 14:12:06 **2** care whether one of your analysts misidentifies a
 14:12:09 **3** bundle as a fiber or a fiber as a bundle?
 14:12:11 **4** MS. O'DELL: Object to the form.
 14:12:13 **5 Q.** (By Mr. Chachkes) Do you care?
 14:12:14 **6** MS. O'DELL: Object to the form.
 14:12:15 **7** THE WITNESS: I care if they identify it
 14:12:19 **8** properly according to the regulations, and in
 14:12:22 **9** all cases they have.
 14:12:23 **10 Q.** (By Mr. Chachkes) I'll ask the same
 14:12:24 **11** question again.
 14:12:24 **12 A. And I'll answer it the same way every**
 14:12:26 **13 time.**
 14:12:26 **14 Q.** We'll add this to the list of things we're
 14:12:28 **15** going to get the magistrate to --
 14:12:30 **16 A. Fine.**
 14:12:30 **17 Q.** -- answer.
 14:12:30 **18 A. That's fine.**
 14:12:30 **19 Q.** Do you care --
 14:12:31 **20 A. I'm going to answer it the same way, so we**
 14:12:33 **21 can move on.**
 14:12:34 **22 Q.** I want a clear record. If you don't want
 14:12:36 **23** to answer -- do you care --
 14:12:37 **24 A. I've answered already.**
 14:12:37 **25** MS. O'DELL: Excuse me. He's answered
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 14:13:13 **1** answer that you want. You're entitled to an
 14:13:13 **2** answer, and he's answered your question.
 14:13:19 **3** MR. CHACHKES: Let's maybe -- I don't
 14:13:19 **4** think this colloquy is productive. I'm going to
 14:13:19 **5** ask the same question again. If you want to say
 14:13:22 **6** don't ask it, you can order me not to ask it.
 14:13:22 **7** I'm going to ask it again.
 14:13:23 **8 Q.** (By Mr. Chachkes) Do you care whether
 14:13:24 **9** your analysts misidentify a bundle as a fiber or a
 14:13:28 **10** fiber as a bundle? Just the morphology I'm talking
 14:13:30 **11** about.
 14:13:31 **12 A. Asked and answered.**
 14:13:32 **13** MS. O'DELL: Excuse me. Object to the
 14:13:33 **14** form.
 14:13:34 **15 Q.** (By Mr. Chachkes) So you believe you've
 14:13:37 **16** already answered that?
 14:13:37 **17 A. Yes.**
 14:13:38 **18 Q.** Okay. And if I were to say you don't care
 14:13:41 **19** about whether an analyst is misidentifying a
 14:13:44 **20** morphology, would I be wrong or right?
 14:13:46 **21** MS. O'DELL: You would be misstating his
 14:13:48 **22** testimony. Object to the question.
 14:13:49 **23 Q.** (By Mr. Chachkes) If I said you do care
 14:13:52 **24** that an analyst misidentified the morphology of
 14:13:56 **25** asbestos, would I be wrong or right?
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14:25:21 **1 A. Correct.**
 14:25:21 **2 Q.** Are there two kinds of tremolite,
 14:25:34 **3** asbestiform and nonasbestiform?
 14:25:36 **4 A. Yes.**
 14:25:36 **5 Q.** Just identifying something as tremolite
 14:25:41 **6** doesn't mean it's asbestiform?
 14:25:43 **7** MS. O'DELL: Object to the form.
 14:25:44 **8** THE WITNESS: It can be massive tremolite.
 14:25:47 **9** You know, if it's fibrous and it meets the
 14:25:49 **10** definition, then it's going to be asbestiform.
 14:25:51 **11** I mean, according to the definition.
 14:25:53 **12 Q.** (By Mr. Chachkes) The question is just
 14:25:54 **13** identifying something as tremolite does not mean it's
 14:25:56 **14** asbestiform; is that correct?
 14:25:57 **15** MS. O'DELL: Object to the form.
 14:25:58 **16** THE WITNESS: Once again, you would have
 14:26:02 **17** to look at the form.
 14:26:03 **18 Q.** (By Mr. Chachkes) To determine whether
 14:26:04 **19** it's asbestiform?
 14:26:05 **20 A. Yes.**
 14:26:06 **21** MS. O'DELL: Object to the form.
 14:26:07 **22 Q.** (By Mr. Chachkes) Just identifying
 14:26:08 **23** something as anthophyllite doesn't mean it's
 14:26:10 **24** asbestiform; correct?
 14:26:11 **25** MS. O'DELL: Object to the form.
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14:26:12 **1** THE WITNESS: Once again, if it meets the
 14:26:15 **2** definition than it would be.
 14:26:17 **3 Q.** (By Mr. Chachkes) Okay. And if it
 14:26:19 **4** doesn't meet the definition, it wouldn't be?
 14:26:21 **5** MS. O'DELL: Object to the form.
 14:26:22 **6** THE WITNESS: Well, it's still
 14:26:23 **7** anthophyllite. It may be, you know, below the
 14:26:26 **8** aspect ratio again. Causes the same health
 14:26:30 **9** effects.
 14:26:30 **10 Q.** (By Mr. Chachkes) What's a cleavage
 14:26:36 **11** fragment again?
 14:26:36 **12** MS. O'DELL: Asked and answered.
 14:26:38 **13** THE WITNESS: Yeah. Talked about that
 14:26:39 **14** already.
 14:26:39 **15 Q.** (By Mr. Chachkes) So what is it?
 14:26:41 **16 A. It is a -- it's a form that would not have**
 14:26:45 **17 parallel sides. Wouldn't have the aspect ratio.**
 14:26:49 **18 It's going to be an odd shape.**
 14:26:50 **19 Q.** Is something that had nonparallel sides
 14:26:55 **20** with an aspect ratio of 6-to-1, would that be a
 14:26:59 **21** cleavage fragment?
 14:27:00 **22** MS. O'DELL: Object to the form.
 14:27:01 **23** THE WITNESS: Most likely.
 14:27:02 **24 Q.** (By Mr. Chachkes) Do you agree with the
 14:27:03 **25** statement: Crushing of nonasbestiform amphibole can
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14:27:06 **1** lead to elongate fragments that conform to the
 14:27:09 **2** definition of an asbestiform fiber?
 14:27:11 **3** MS. O'DELL: Object to form.
 14:27:12 **4** THE WITNESS: Yes.
 14:27:12 **5 Q.** (By Mr. Chachkes) Do you agree with this
 14:27:13 **6** statement: Crushed nonasbestiform amphiboles rarely
 14:27:17 **7** have aspect ratios exceeding 30-to-1?
 14:27:21 **8 A. I mean, that is -- that's been stated, but**
 14:27:29 **9 it's as rarely -- so it's not 100 percent. So you**
 14:27:35 **10 can have some.**
 14:27:35 **11 Q.** But you agree with the statement?
 14:27:38 **12** MS. O'DELL: Object to the form. He just
 14:27:40 **13** said what he thought about the statement.
 14:27:41 **14** THE WITNESS: Yeah.
 14:27:41 **15 Q.** (By Mr. Chachkes) It's yes or no. Do
 14:27:43 **16** crushed -- do you agree with this statement, yes or
 14:27:45 **17** no: Crushed nonasbestiform amphiboles rarely have
 14:27:48 **18** aspect ratios exceeding 30-to-1?
 14:27:50 **19** MS. O'DELL: You may answer it any way
 14:27:52 **20** you'd like, Doctor. You're not restricted.
 14:27:54 **21** THE WITNESS: I mean, I've already
 14:27:55 **22** answered part of the question, and I would say
 14:27:56 **23** yes, you know.
 14:28:00 **24** MS. O'DELL: We have been going about an
 14:28:01 **25** hour. Why don't we take a quick break.
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14:28:04 **1** MR. CHACHKES: Sure.
 14:28:43 **2** (Recess from 2:28 p.m. to 2:52 p.m.)
 14:52:54 **3** (Defendants' Exhibit 1 was marked for
 14:52:54 **4** identification.)
 14:52:54 **5 Q.** (By Mr. Chachkes) Okay. Dr. Rigler, this
 14:53:11 **6** has already been marked as Rigler Exhibit 1. Can you
 14:53:15 **7** confirm that those are MAS invoices?
 14:53:17 **8 A. Let's see. It has MAS on the letterhead.**
 14:53:26 **9 They look like they are, yep.**
 14:53:29 **10 Q.** Okay. It looks like the first page is an
 14:53:31 **11** April invoice. Am I right there?
 14:53:33 **12 A. April 8 to April 11, 2018.**
 14:53:38 **13 Q.** Okay. And it looks like the second one on
 14:53:42 **14** page 2 is a March invoice?
 14:53:44 **15 A. Let's see. Yes.**
 14:53:46 **16 Q.** And then page 3 looks like a single block
 14:53:50 **17** billing for, I'm guessing, the report, the
 14:53:56 **18** November 15 report?
 14:53:56 **19 A. I don't know. I have no idea. First time**
 14:53:59 **20 I've seen these.**
 14:53:59 **21 Q.** Okay.
 14:54:00 **22 A. Yeah, so I don't know.**
 14:54:01 **23 Q.** Okay. So you wouldn't know whether
 14:54:03 **24** there's other billing --
 14:54:04 **25 A. I have no idea.**
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CERTIFICATE

STATE OF GEORGIA:

COUNTY OF HALL:

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the questions and answers thereto were reduced to typewriting under my direction; that the foregoing pages 1 through 228 represent a true, complete, and correct transcript of the evidence given upon said hearing, and I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

This, the 8th day of February, 2019.

FRANCES BUONO, B-791
 Georgia Certified Court Reporter

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DEPOSITION OF MARK W. RIGLER, PH.D. /FCB

I do hereby certify that I have read all questions propounded to me and all answers given by me on the 6th day of February, 2019, taken before Frances Buono, and that:

- 1) There are no changes noted.
 2) The following changes are noted:

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If supplemental or additional pages are necessary, please furnish same in typewriting annexed to this deposition.

MARK W. RIGLER, PH.D.

Sworn to and subscribed before me,
 This the ____ day of ____, 20__.

Notary Public
 My commission expires: _____

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